IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 37710 of 2007(L)

(AGAINST THE ORDER IN E.A.40/07 IN E.P.5/06 O.S.179/01 OF MUNSIFF COURT, KAYAMKULAM)

PETITIONER:

RADHAKRISHNAN S,
SARON VILLA VEETTIL, KAPPIL KUTTIPPURAM MURI,
NEAR GURUMANDIRAM, FROM CHERAVALLY MURIYIL,
CHENGALAPPALLY VEETTIL.

BY ADV. SRI.P.SREEKUMAR

RESPONDENT:

V. PEETHAMBARAN, S/O. VELUTHAKUNJU,
PUTHEZHATHU VEEDU, PUTHUPALLY VILLAGE, PUTHUPALLY,
VADAKKUM MURIYIL, KAYAMKULAM, KARTHIKAPPALLY TALUK

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 37710 OF 2007

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Dated this the 19th day of December, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Kayamkulam in E.A.40/07 in E.P.5/06 in O.S.179/01. The writ petitioner is the judgment debtor and the Court below has ordered attachment of Rs.2,500/- from his salary. He has brought to my notice Exts.P1 and P2. As per Ext.P2 the net amount drawn is only Rs.1,681/- though he is having a salary of Rs.9,749/-, the deduction is Rs.8,018/-. I am conscious of the fact that all deductions made from the salary cannot be excluded for the purpose of calculating attachable salary. But the thing remains that the carry home salary of the person is Rs.1,681/-.

2. I am also informed that he has filed an appeal and a stay application is pending before the appellate court. So, taking into consideration these facts and circumstances I set aside the order of the Court below and direct the writ

petitioner to pay at the rate of Rs.1,000/- per month for the next four months and meanwhile the appellate court to consider his stay application and further directions can be had after the stay application is disposed of by the appellate court. The Court below shall intimate the disbursing officer not to effect the attachment as ordered by it in the light of these directions.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-